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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

17 | Discovery Land Company, LLC,
18 | Discovery Design, LLC, and Michael
Meldman,

Maricopa County Superior Court Case
No.: Case No.: CV2021-008701

19 Plaintiffs,

**DEFENDANT FEDERAL
INSURANCE COMPANY'S NOTICE
OF REMOVAL; DECLARATION OF
AMY M. SAMBERG**

20 | VS.

Federal Insurance Company,

Defendant.

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Defendant FEDERAL INSURANCE COMPANY (“Federal”), by and through its counsel, and pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, hereby gives notice of removal to the United States District Court for the District of Arizona of an action filed against

1 Federal in the Superior Court of the State of Arizona, in and for the County of Maricopa. In
2 support of its Notice of Removal, Federal respectfully states the following:

3 **I. Federal's Notice of Removal is Timely**

4 1. On May 26, 2021, Plaintiffs Discovery Land Company, LLC (“DLC”),
5 Discovery Design, LLC (“DD”) and Michael Meldman (“Meldman”) filed a complaint
6 against Federal in the Superior Court of the State of Arizona, County of Maricopa, captioned
7 *Discovery Land Company, LLC, Discovery Design, LLC, and Michael Meldman v. Federal*
8 *Insurance Company*, case no. CV2021-008701 (the “Lawsuit”). Wilde Decl., ¶ 3 and **Ex.**
9 **A** thereto.

10 2. On August 23, 2021, Federal waived service of the complaint. Plaintiff filed
11 the waiver in the state court matter on August 24, 2021. *Id.* at ¶ 4 and **Ex. B.** thereto.

12 3. Federal’s Notice of Removal is therefore timely under 28 U.S.C. § 1446, as it
13 is filed within 30 days of service.

14 4. Attached, collectively, as **Ex. C** are true and correct copies of all other
15 process, pleadings, and orders filed in the State Court Action: Current Court Docket, Notice
16 of Appearance, Notice of Intent to Dismiss, Coversheet, Certificate of Arbitration and
17 Summons.

18 5. Attached is the Supplemental Civil Cover Sheet.

19 **II. This Matter is Removable Because This Court Has Subject Matter Jurisdiction**
20 **Pursuant to 28 U.S.C. § 1332**

21 **A. There is Complete Diversity of Citizenship**

22 6. According to paragraph 1 of the complaint filed in the state court matter,
23 Plaintiff DLC is a Delaware limited liability company with its principal place of business at
24 14605 N. 73rd Street, Scottsdale, AZ 85260. *Id.* at Ex. A, ¶ 1.

25 7. According to DLC’s Application for Registration of a Foreign Limited
26 Liability Company on file with the Arizona Corporation Commission, the only member of
27 DLC is Meldman. *Id.* at ¶¶ 5-9, and **Ex. D** thereto.

1 8. According to paragraph 3 of the complaint filed in the state court matter,
2 Plaintiff Meldman is a resident of Nevada. *Id.* at Ex. A, ¶ 3.

3 9. Because Meldman is a citizen of Nevada, his citizenship is also imputed to
4 DLC, which is considered a citizen of Nevada for diversity purposes.

5 10. According to paragraph 2 of the complaint filed in the state court matter,
6 Plaintiff DD is a Delaware limited liability company with its principal place of business at
7 14605 N. 73rd Street, Scottsdale, AZ 85260. *Id.* at Ex. A, ¶ 2.

8 11. According to DD's most recent Annual Report on file with the Idaho Secretary
9 of State, DD's business address is 14605 N. 73rd St., Scottsdale, AZ 85260, and its members
10 are: (1) Joseph Arenson; (2) Ed Divita; (3) Michael Meldman; and (4) Schuyler Joyner. *Id.*
11 at ¶¶ 10-11, and **Ex. E** thereto.

12 12. Based on a public records search, Federal is informed and believes Mr.
13 Arenson is a citizen of California. *Id.* at ¶ 12.

14 13. Based on a public records search, Federal is informed and believes Mr. Divita
15 is a citizen of California. *Id.* at ¶ 13.

16 14. Based on a public records search, Federal is informed and believes Mr. Joyner
17 is a citizen of California. *Id.* at ¶ 14.

18 15. Based on the citizenship of its members, DD is a citizen of Nevada and
19 California.

20 16. According to paragraph 4 of the complaint filed in the state court matter,
21 Defendant Federal is an Indiana corporation with its principal place of business in Indiana.
22 *Id.* at Ex. A, ¶ 4. This allegation is only partially correct. Federal is an Indiana corporation
23 but it's principal place of business is in New Jersey. *See* Federal's Rule 7.1 Disclosure and
24 Answer at ¶ 4, both filed contemporaneously herewith.

25 17. Because Plaintiffs are collectively citizens of Nevada and California, and
26 Federal is a citizen of Indiana and New Jersey, complete diversity of citizenship exists as
27 required by 28 U.S.C. § 1332.

1 ***B. The Amount in Controversy Requirement is Satisfied***

2 18. Paragraph 8 of the complaint in the state court matter alleges “the amount in
3 dispute is over \$300,000....” Wilde Decl., at Ex. A, ¶ 8.

4 19. Pursuant to 28 U.S.C. § 1332(a), the amount in controversy in this action
5 therefore exceeds \$75,000.

6 ***C. This Action is Removable to the United States District Court for the
7 District of Arizona***

8 20. Because this civil action is between citizens of different states and the amount
9 in controversy exceeds the sum or value of \$75,000, the United States District Court has
10 original subject matter jurisdiction under 28 U.S.C. § 1332, and this matter is removable
11 under 28 U.S.C. § 1441 and 28 U.S.C. § 1446.

12 21. Removal to the United States District Court for the District of Arizona is
13 appropriate because it is the district within which the state court action is pending. *See* 28
14 U.S.C. § 1446(a).

15 22. In removing this action to the United States District Court for the District of
16 Arizona, Federal does not concede that this Court has personal jurisdiction over it, nor does
17 it concede that the Lawsuit was filed in the appropriate venue. Federal specifically reserves
18 all of its defenses, including without limitation all defenses relating to jurisdiction and venue.

19 ***D. All Defendants Have Consented to Removal***

20 23. Federal is the only defendant in this matter. Therefore, all defendants have
21 consented to removal.

22 ***III. Filings and Notice***

23 24. As required by 28 U.S.C. § 1446(d), Federal will give written notice of the
24 removal to all adverse parties and file a copy of the notice with the clerk of the state court.

25 25. As required by 28 U.S.C. § 1446(a), Federal has submitted herewith copies of
26 all process, pleadings, and orders in the state court, attached as Exhibits A and B to the
27 Samberg Declaration.

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1 Dated: September 20, 2021

CLYDE & CO US LLP

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3

4 By: s/ Amy M. Samberg

5 Amy M. Samberg

6 Ralph A. Guirgis

7 Sean R. Simpson

8 Michael S. Wilde

9 Attorneys for Defendant FEDERAL
10 INSURANCE COMPANY

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DECLARATION OF AMY M. SAMBERG

I, Amy M. Samberg, declare and state as follows:

3 1. I am an active member in good standing of the State Bar of Arizona and am
4 Equity Counsel with the law firm of Clyde & Co US LLP., counsel of record for Defendant
5 ACEI am an attorney with Clyde & Co US LLP and I represent Defendant Federal Insurance
6 Company (“Federal”).

7 2. This declaration is submitted in support of Defendant Federal's Notice of
8 Removal. I have personal knowledge of the facts stated in this declaration based upon
9 information that I have obtained during my representation of Federal in the above-referenced
10 matter. I can competently testify to these facts if called as a witness in these proceedings.

11 3. Attached hereto as Exhibit A is a copy of a complaint against Federal in the
12 Superior Court of the State of Arizona, County of Maricopa, captioned *Discovery Land*
13 *Company, LLC, Discovery Design, LLC, and Michael Meldman v. Federal Insurance*
14 *Company*, case no. CV2021-008701.

15 4. Attached hereto as Exhibit B is a copy of a waiver of service executed by
16 Federal on September 23, 2021.

Attached, collectively, as Exhibit C are true and correct copies of all other process, pleadings, and orders filed in the State Court Action: Current Court Docket, Notice of Appearance, Notice of Intent to Dismiss, Coversheet, Certificate of Arbitration and Summons.

21 5. On September 9, 2021, I accessed the public filings for Discovery Land
22 Company, LLC (“DLC”) on the website of the Arizona Corporation Commission.

23 6. The Application for Registration of a Foreign Limited Liability Company for
24 DLC on file with the Arizona Corporation Commission is attached as Exhibit D hereto.

7. Under section 6 of that document, it requires the applying entity to list “[t]he names and addresses of each person who is a member....” Ex. 1, p. 2.

27 ||| 8. The only person listed as a member is "Michael D. Meldman." *Id.*

28 9. The later public filings do not reveal any change in the members of DLC.

1 10. On September 9, 2021, I accessed the public filings for Discovery Design,
2 LLC (“DD”) on the website of the Idaho Secretary of State.

3 11. The most recent annual report for DD on file with the Idaho Secretary of State
4 is attached as Exhibit E hereto. That document indicates the members of DD are (1) Joseph
5 Arenson; (2) Ed Divita; (3) Michael Meldman; and (4) Schuyler Joyner.

6 12. On June 15, 2021, I searched for Mr. Arenson using a public records search
7 tool provided by Westlaw. The result of this search indicated that Mr. Arenson is a resident
8 of Beverly Hills, CA.

9 13. On June 15, 2021, I searched for Mr. Divita using a public records search tool
10 provided by Westlaw. The result of this search indicated that Mr. Divita is a resident of
11 Emerald Hills, CA.

12 14. On June 15, 2021, I searched for Mr. Joyner using a public records search tool
13 provided by Westlaw. The result of this search indicated that Mr. Joyner is a resident of
14 Costa Mesa, CA.

15 15. Pursuant to 28 U.S.C. § 1446 and LRCiv 3.6, the undersigned verifies that
16 Exhibit A (Complaint) and B (Waiver of Service) are true and correct copies and the only
17 process, pleadings, and orders served upon Federal in that action.

18 16. Attached as Exhibit F is a true and correct copy of the Notice of Removed
19 Action to be filed with the Clerk of the Maricopa County Superior Court in Case No.
20 CV2021-008701.

21 I declare under penalty of perjury under the laws of the United States of America that
22 the foregoing is true and correct.

s/ Amy M. Samberg
Amy M. Samberg

CERTIFICATE OF SERVICE

I hereby certify that on September 20, 2021, I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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13 | /s/Brenda Uran

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